

REMARKS

Claims 1-74 are presently pending in the application. The claims have been rejected for multiple reasons as set forth below. These rejections are respectfully traversed.

Amendment to the Specification

Paragraph [0039] is a duplicate of paragraph [0038] and has been deleted from the specification by this amendment.

35 U.S.C. § 112 Rejections

Claims 1-11 and 33-47 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner has said, "The specification does not adequately describe how the information of a receiving device is gathered." This rejection does not make sense to the Applicant since neither claim 1 nor claim 33 contains any recitation that the receiving device gathers any information. In the specification, as well as in the claim, the information is *directed to* a receiving device. Neither claim in any manner even suggests that the receiving device gathers information. Claim 1 specifically recites that the **monitoring system operating in conjunction with the receiving device** gathers the information. Thus, the rejection with respect to claim 1 is not understood by the Applicant and the Applicant respectfully requests that the rejection be withdrawn.

Claim 33, which is a method claim, specifically recites **gathering information** without any specific identification of where the information is gathered. Since the entire specification is directed to how the information is gathered, as to what information is gathered the Applicant cannot point to any single passage for clarifying support. However, as one example, beginning at paragraph [0025] the precise manner in which incoming information packets are intercepted and fed to the microprocessor is discussed. How the microprocessor functions is then detailed in subsequent portions of the specification. Accordingly, it is respectfully requested that this rejection with respect to claim 33 be withdrawn.

Claims 17-22 and 26-27 are rejected under 35 U.S.C. § 112, first paragraph, as being a single means (system for tracking data flow) claim. Applicant does not at all understand

the basis for this rejection. Nothing in the first paragraph of 35 U.S.C. § 112 prohibits a claim having a single means clause. However, of even more importance, claim 17 is not a means plus function claim. Assuming that claim 17 were to be found to be a means plus function claim, there is nothing inherent, as discussed above, in a single means claim that is improper. The test is whether the specification enables the scope of the claim. The Examiner has not even attempted to address the scope of claim 17 other than to say that a single means element is not allowed. See, for example, MPEP 2164.08(a). However, since the identified claims are not even “means” claims, this rejection is improper and should be withdrawn.

Claims 1-16 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

With respect to claim 1, the Examiner identifies the feedback network as being indefinite. Specifically, the Examiner has said, “it is not clear what is meant by a feedback network because usually there is a device in the network that is performing the action...” The Examiner’s attention is directed to FIGURE 1, element 102 which is labeled FEEDBACK CONTROL. Element 102 working in conjunction with, for example, configuration server 22, provides a feedback network. This operates in conjunction with communications interface 214 and a link through modems 16 and 17 to send a command to the configuration server. This operation is, for example, contained in paragraph [0026] as well as in many other portions of the specification. Accordingly, this rejection should be removed.

Claim 3 has been rejected with the Examiner saying, “it is not clear what is meant by ‘pre-established criteria.’ The Examiner also said, “It is also not clear what the limits are being set on and which device is comparing and storing information.” One underpinning of the inventive concept is comparing incoming packets against certain criteria. This operation is explained in detail beginning generally at paragraph [0025]. Paragraph [0027] details that there are “programs, parameters and algorithms in storage” that control different types of attacks. Paragraph [0033] illustrates several pre-established criteria and paragraphs [0036] and [0037] discuss pre-established conditions in terms of “normal” conditions which can be changed from time to time. Claim 3 has been amended to clarify what is meant by the term,

“set limits.” Support for setting limits is shown, for example, in the last line of paragraph [0029]. As amended, claim 3 should now be held allowable.

Claims 12-14 were rejected with the Examiner saying, “it is unclear what is meant by ‘said last-mentioned gathered data.’” Claim 12 has been amended to correct the confusion and as amended should now be allowable.

Claims 31-32 and 51-53 were rejected with the Examiner saying that the claim “are indefinite because the wherein clause in claims 31 and 51 are confusing.” These claims have been canceled without prejudice as an aide to prosecution.

35 U.S.C. § 103(a) Rejections

Claims 1-3, 8-9, 11, 15-18, 22, 26-28, 31-35, 40-41, 44-45, 47-48, 51-55, 59, 63-67 and 74 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gleichauf (U.S. Pat. No. 6,415,321) in view of Eschelbeck (U.S. Pat. No. 6,611,869) and in view of Smith (“Operating Firewalls Outside the LAN Perimeter”, IEEE Publication).

The Smith paper talks in terms of moving the blocking of unwanted inbound traffic to a gateway nearer the source of the problem traffic. Claim 1 is directed to **modifying the operational characteristics of said gateway router depending upon said gathered information**. The Smith paper is specifically directed to **gateway firewalls**. The Smith paper does not in any manner address **gateway routers** except to point out that routers can act as firewalls. The entire thrust of the Smith paper is that a **firewall** can be established at a gateway. See, for example, Smith section 3.1 where it is specifically recited (emphasis added), “We are proposing that a new control message be added that would carry encrypted data related to the control of a **new function** of the **gateway firewall** and that function being **a packet filtering firewall**.” Clearly then Smith deals only with a **firewall** and not with the gateway router. Thus, the Smith reference does not discuss or even hint at **modifying the operating characteristics of said gateway router** as specifically recited in claim 1. When one changes the function of a router the data coming through the router is delivered differently than it would have been had the router not been modified. When one changes the function of a firewall information is blocked. Thus, changing routing directions (one example of which would be to return the data to the sending party; another example would be

to send the data to a “dead letter” box) is a different concept from simply blocking the data by a filtering firewall as discussed by Smith.

Note that routers **pass** data therethrough according to an address. Claim 1 specifically recites that data incoming to the router is directed to a specific location in accordance with its address. Firewalls, by definition, **block** data from passing. It is the present Application that first discusses that the **router itself** can be an effective tool in preventing destructive data packets from harming an enterprise operation. Nothing in the prior art suggests modification to the router operation being a function of data passing through the router. Accordingly, it is respectfully requested that claim 1 be held allowable.

Claim 17 recites that a network control device is a device that sends data out onto the network as well as to control the receipt of data from the network and that the tracking system of claim 17 **sends instructions from time to time to said control device to affect the flow of data to said particular site**. As discussed above with respect to claim 1, the Smith reference deals only with firewalls and not with network control devices that sends data bi-directionally. Note that in Smith, the idea of controlling data flowing outbound is specifically excluded. See, for example, Smith, Section 3 third paragraph where Smith states, “The benefit of considering only inbound packets is supported by the notion that the corporate firewall should be responsible for the outbound packets...” Accordingly, Since Smith specifically excludes bi-directional blocking and claim 17 is directed to bi-directional activity, it is respectfully requested that claim 17 be held allowable.

Claim 28 specifically recites a flow control for nodes on a network where data passes between the nodes. Claim 28 further recites that traffic affecting signals are fed to one or more of the nodes based upon comparison of monitored data parameters with stored data. As discussed above with respect to claim 1, the Smith reference deals only with firewalls and not with network nodes. Smith defines firewalls to be separate from nodes since Smith specifically places the firewall at the node or router. Accordingly, it is respectfully requested that claim 28 be held allowable.

Claim 33 is similar to claim 1 in that the data is routed by routers according to its address and the data flow is modified with respect to a particular (routed) location depending

upon the gathered information. Accordingly, claim 33 should be held allowable for the reasons set forth with respect to claim 1.

Claim 48 should be held allowable for the reasons set forth above for claims 1 and 28.

Claim 54 should be held allowable since nothing in the prior art shows where **arriving data is sent to storage for a period of time dependant in part upon said tracked data flow situations**, as specifically recited in claim 54. The Examiner has not addressed this recitation in his rejection. Accordingly, it is respectfully requested that claim 54 be held allowable.

Claim 65 should be held allowable for the reasons set forth above for claim 33.

Claims 4-5, 19, 21, 29, 36-37, 49, 56, 58 and 68-69 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gleichauf in view of Eschelbeck and Smith as applied to claims 3, 18, 28, 35 and 67, and further in view of Kouznetsov (U.S. Pat. No. 6,725,377).

These claims should all be held allowable for the reasons set forth above-for their respective parent claims and for the further reason that Kouznetsov simply shows that certain parameters can be changed remotely from time to time. Claims 4, 8, 19, 29, 36, 49, 56, and 68 have been amended to more clearly recite that the changing of the parameters is based upon what is currently being tracked (gathered, compared). Thus, the dynamic changing of the parameters depend upon current system operation and not on what is "sent" to the system by a system user. Accordingly, the claims as amended should be held allowable for this reason as well.

Claims 6-7, 10, 12-14, 20, 23-25, 38-39, 43, 46, 57, 60-62 and 70-73 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gleichauf in view of Eschelbeck and Smith as applied to claims 1, 17, 18, 29, 33 and 65, and further in view of Conklin (U.S. Pat. No. 5,991,881).

These claims are allowable for the reasons set forth above for claims 1-3, 8-9, 11, 15-18, 22, 26-28, 31-35, 40-41, 44-45, 47-48, 51-55, 59, 63-67 and 74.

Claims 30 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gleichauf in view of Eschelbeck and Smith and Kouznetsov as applied to claims 29 and 49, and further in view of Conklin.

These claims are allowable for the reasons set forth above for claims 1-3, 8-9, 11, 15-18, 22, 26-28, 31-35, 40-41, 44-45, 47-48, 51-55, 59, 63-67 and 74.

Conclusion

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. Please charge any fees required or credit any overpayment to Deposit Account No. 06-2380, under Order No. 58895/P001C1/10316486 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

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Respectfully submitted,

By

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